

## **Section IV: Definitive Plan**

### **IV.A. General**

A Definitive Plan shall be governed by the Subdivision Regulations in effect at the time of submission of such plan or in effect at the time of the submission of a Preliminary Plan provided that a Definitive Plan evolved therefrom shall have been submitted to the Planning Board within seven (7) months from the date of submission of the Preliminary Plan.

A Definitive Plan shall be governed by the zoning in effect at the time of submission of such plan or a Preliminary Plan from which a Definitive Plan is evolved in accordance with the provisions of Section 7A of Chapter 40A of the General Laws of the Commonwealth.

### **IV.B. Filing Procedures**

Any person submitting a Definitive Plan shall give written notice thereof to the Town Clerk by delivery or registered mail, such notice shall identify the tract, the date of submission, and the name and address of the owner (Use Form C).

The applicant shall file the original drawing of the Definitive Plan Map, six (6) contact prints, and six (6) copies of a Development Impact Statement with the Planning Board. The Planning Department or Secretary of the Board shall distribute one copy to each of the following agencies: Department of Inspection Services, Office of the Town Engineer, Fire Department, Superintendent of Public Works, and the Conservation Commission. The applicant shall also file one set of contact prints and a Development Impact Statement with the Board of Health. The original drawing and a copy of the Development Impact Statement will be reserved for signatures to be returned to the applicant after approval or disapproval by the Planning Board. The format for a Development Impact Statement may be found in Appendix A. Two prints of the proposed subdivision shall have the significant features illustrated according to the following color scheme:

Roads – dark grey;  
Streams and Waterbodies – blue;  
Open Space and Recreation Areas – green;  
Pedestrian and Bicycle Paths – brown;  
Subdivision Boundaries –black.

In addition, the applicant shall file with the Board for the following:

1. Application form (Use Form C).
2. Designer's Certificate (Use Form D).

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3. Certified List of Abutters (Use Form F).
4. Approval with Covenant Contract, notarized in duplicate, if no performance bond or certified check is to be posted (Use Form I).
5. One set of three overlays shall be prepared on acetate at the same scale as the Definitive Plan map. These overlays shall illustrate the following features:

Overlay #1 – Flood prone areas, Aquifer recharge areas;  
Overlay #2 – Soils, Slopes greater than 25%;  
Overlay #3 – Vegetation types.

The Planning Department is available to assist in the compilation of this data.

#### IV.C. Contents

The Definitive Plan Map shall be clearly and legibly drawn in black India ink upon tracing cloth or similar material. The plan shall be at a scale of one inch equals forty feet (1"=40') or such other scale as the Board may accept to show details clearly and adequately. Sheet sizes may not exceed 36" x 42" for construction plans and shall be no larger than 24" x 36" for those sheets of the Definitive Plan that are to be recorded in the Hampshire County Registry of Deeds. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. Suitable space shall be provided on the plan to record the action of the Board and the signatures of the members of the Board (or officially authorized person). The date required below may be on separate sheets as clarity and sound practice dictate. The Definitive Plan shall contain the following information:

1. Subdivision name including the way or ways on which it is situated, boundaries, north point, date, scale, bench mark and datum. All elevations to refer to U.S.C. & G.S. bench marks if within 500 feet of the subdivision.
2. Legend denoting any signs and symbols used on the plan and not otherwise explained.
3. Name and address of record owner, subdivider, and surveyor. The seal and certificate number of the surveyor shall appear on the Definitive Plan.
4. Names of all abutters as they appear in the most recent tax list or a subsequent deed.
5. Key plan, showing location of the subdivision at a scale of one inch

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equals one thousand feet (1"=1000') and an accurate index plan at a scale of one inch equals two hundred feet (1"=200') or one inch equals one hundred feet (1"=100'), to be selected in consultation with the Town Planner.

6. All information required on the Preliminary Plan.
7. Existing and proposed topography at a two foot contour interval for gentle slopes and at a five foot contour interval for steep slopes.
8. Zoning districts of all areas shown on the plan.
9. Areas of lots and lot numbers and references to the existing Town Atlas page and lot numbers of parcels to be developed.
10. Watercourses, ponds, marshes, rock outcrop, stone walls, trees of over eight (8) inch caliper (unless otherwise specified by the Board) and other significant natural features.
11. Subsurface conditions on the tract, location and results of tests made to ascertain subsurface soil, rock and groundwater conditions, depth to ground water, and location and results of soil percolation tests if individual sewage disposal systems are proposed (on a separate sheet). The above percolation tests on each lot within the subdivision shall be made by and at the expense of the developer and shall be in accordance with the Board of Health rules and the State Sanitary Code as applicable.
12. Size and location of existing and proposed water supply facilities.
13. A sanitary sewer system including appropriate invert elevations of man-holes, rim elevations of man-holes (these may be shown on the sewer profiles instead), type of man-holes and pipe, wye locations, man-hole number of letter designation and existing sanitary sewerage.
14. Location of all the following improvements unless specifically waived in writing by the Board: street paving, sidewalks, street lighting standards, all utilities above and below ground (ie., telephone, cable TV, gas), curbs, gutters, storm drainage, all easements, and when required by the Fire Department, the fire alarm boxes.
15. A storm drainage system shown including invert and rim elevations of all catch basins and man-holes together with surface elevations of all waterways within the subdivision at 100 foot intervals and approximate depth of water at these points. Surface elevation and approximate depth of water at the annual high water line shown at each point where drainage pipe ends at a waterway.

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Drainage calculations prepared by the applicant's engineer, including design criteria used, drainage area and other information sufficient for the Board to check the size of any proposed drain, culvert or bridge. Existing storm sewerage should be shown.

16. Existing and proposed lines of streets, ways, easements and public or common areas within the subdivision. (The proposed names of the proposed streets shall be shown in pencil until they have been approved by the Board).
17. Data concerning the length, radii and central angles of all the horizontal curves; the bearing and length of every street and way line, all lot and boundary lines, sufficient to permit reproduction of the same on the ground. All bearings to be referred to a magnetic meridian, an established deed, or some appropriate meridian. Wherever a boundary line of the subdivision is within 500 feet of a Massachusetts Co-ordinate Survey Monument, the survey of the subdivision shall be tied to said monument or monuments.
18. Location of all permanent monuments properly identified as to whether existing or proposed. The distance and bearing to the nearest town, county or state monument on an accepted way, and monuments at all points of curvature and changes in direction of street side lines, or where designated by the Town Engineer.
19. Location, names and present widths of street bounding, approaching or within reasonable proximity of the subdivision and street lines of the access road leading from the subdivision to the nearest public road.
20. A sketch plan, acceptable to the Board, showing a possible or prospective street layout for any adjacent land owned or controlled by the owner or the applicant of the subdivision.
21. Profiles of proposed streets and sewers shall be drawn with:
  - a. A horizontal scale of one inch to forty feet (1"=40') and a vertical scale of one inch to four feet (1"=4').
  - b. Existing grade of road center line in fine black solid line.
  - c. Existing grade of right side of the right-of-way in fine black dash line.
  - d. Existing grade of left side of the right-of-way in fine black dotted line.
  - e. All elevations based on the U.S. Coast and Geodetic Survey bench marks, or, in their absence, an appropriate datum.

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- f. Proposed center line grades with precise elevations at PVC, PVT, high point and low point with precise stationing.
  - g. Rates of gradient shown in percentages.
  - h. All existing intersecting walks, driveways and basements shown on both sides.
  - i. All center lines, street lines and curb lines of streets for 200 feet on either side of each intersection on a connecting street.
  - j. Profiles showing vertical location of existing and other utility crossings as well as required new waterways. Sizes of all pipes, slopes of all storm and sanitary lines, invert and rim elevation of each man-hole or catch basin shall be shown. Profiles shall include proposed lines even if the new work is outside the subdivision. Water mains will be shown in profile to demonstrate sufficient cover and clearance of other structures.
22. Cross sections and construction details shall include:
- a. Roadway section showing paving, crown, berm, shoulder, tie to R/W line, width, walk, etc.
  - b. Details for catch basins, man-holes, endwalls, etc. or specific references to the appropriate sections of the Town Construction Standards.
  - c. Drainage trench or waterway relocation section.

#### IV.D. Performance Guarantee

Before endorsement of approval of a Definitive Plan of a subdivision, the subdivider shall either: (1) File a performance bond secured by surety or deposit money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements plus a ten (10) percent contingency factor or (2) Follow the procedure outlined in Section IV.D.2. or IV.D.3.

##### 1. Approval with bonds or surety (Use Forms G or H)

Such bond or surety, if filed or deposited, shall be approved as to form and matter of execution by the Town Counsel and as to sureties by the Town Manager and shall be contingent on the completion of such improvements within two (2) years of the date of the bond.

If the board shall decide at any time during the term of the performance bond that:

- a. improvements have been installed in a satisfactory manner in sufficient amount to warrant reductions in the face amount of such bond, or
- b. the character and extent of the subdivision requires additional improvements, previously waived, then the Board may modify its requirements for any or all such improvements and the face value of such performance bond shall thereupon be reduced or increased respectively by an appropriate amount.

2. Approval with a Covenant (Use Forms I and J)

Instead of filing a bond or deposit surety, the subdivider may request approval of his Definitive Plan on condition that a covenant running with the land will be duly executed and recorded and inscribed on the Plan, or on a separate document referred to on the Plan, in accordance with Section 81-U of Chapter 41, General Laws. Such covenant shall provide in part that no lot may be built upon or sold until all of the improvements as required in these Regulations have been completed and approved as provided hereafter.

In this case, before endorsement of approval of a Definitive Plan, there shall be filed by the subdivider a properly executed approval with Covenant Contract (Use Form I) in accordance with Section IV.B.

Prior to delivering to the subdivider a Certificate of Performance (Use Form J) whereby the restrictions relating to the lot or lots listed therein shall be terminated, the Board shall determine to its satisfaction that such improvements have been completed so as to adequately serve such lot or lots, in part by requiring that the subdivider submit to the board the following:

- a. Written evidence from the Town Engineer that the streets and drainage conform to the Planning Board requirements in accordance with the approved definitive plan, with the exception of the application of the bituminous concrete road-wearing course.
- b. Written evidence from the Town Engineer that the water mains, sanitary sewers and hydrants conform to specifications and the Board requirements in accordance with the approved Definitive Plan.
- c. Written evidence from the Chief of the Fire Department that the fire alarm system conforms to specifications and the Board requirements in accordance with the approved Definitive Plan.

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- d. A certificate from a Registered Surveyor, to be obtained at the subdivider's expense, that all permanent bounds and monuments as specified in Section IV.C.18 on all street lines and on the lot or lots to be released are in place and are accurately located in accordance with the approved Definitive Plan.
- e. A performance bond secured by surety or by a certified check payable to the "Town of Amherst" in an amount determined by the Board to be sufficient to cover the cost of surfacing and any remaining or uncompleted work (if not already completed as allowed in Section IV.D.2.a.) and approved as to form and sureties by the Town Manager, conditioned on the completion of the remaining improvements within one year of the date of the check or bond. Release of the check or bond shall be subject to the written approval of the Town Engineer that the work has been completed in accordance with requirements.
- f. A completed Certificate of Performance (Use Form J) for signature by a majority of the Board, if approved.
- g. Upon completion of such required improvements the subdivider shall notify the Board and the Town Clerk, by delivery or registered mail, requesting release from such covenant. The Board shall act on such request within forty-five days.

3. Approval with a mortgage statement

Following the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as a security for advances to be made to the subdivider by the lender, the Board may, at its option, release lots from the operation of the covenant given pursuant to Section IV.D.2. without receipt of a bond or deposit of money upon delivery to the Board of an agreement with said Board, which shall be executed by the subdivider and the lender and shall provide for retention by the lender of sufficient funds otherwise due the subdivider to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursement which may be made to the applicant upon completion of various steps of the work, and shall further provide that in the event the work is not completed within the time set forth by the subdivider, any funds remaining undisbursed shall be available to the Town of Amherst for completion of the unfinished work and correction of deficiencies. All of the above as specified under the provisions of General Laws, Chapter 41, Section 81-U, as amended.

#### IV.E. Suitability of the Land

1. When a Definitive Plan of a subdivision is submitted to the Board, a copy thereof shall also be filed with the Board of Health (Use Form K). The Board of Health shall, within forty-five (45) days after the plan is so filed, report to the Planning Board in writing its approval or disapproval of said plan, and in the event of disapproval, shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefore in such report, and, where possible, shall make recommendations for the adjustment thereof. Failure to so report shall be deemed approval by the Board of Health. Every lot so located that it cannot be served by a connection to the municipal sewer system shall be provided with a septic tank and drain-field satisfactory to the Board of Health.
2. Watercourses, ponds, flood prone areas and wetlands may not be altered, filled, drained, or relocated except when approved by the appropriate authorities.

#### IV.F. Public Hearing

Before approval, modification and approval, or disapproval of the Definitive Plan is given, a public hearing shall be held by the Board. Notice of the time and place shall be given by the Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Amherst once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list (Use Form E).

#### IV.G. Certificate of Approval

Prior to action by the Board on the Definitive Plan, the Planning Director, Town Engineer, Superintendent of Public Works, Director of the Board of Health, and the Fire Chief shall conduct a complete review of the proposed improvements and report their recommendations to the Board.

The Board shall take final action on such plan in accordance with the following schedule:

1. Within ninety (90) days of the filing of a non-residential Definitive Subdivision Plan.
2. Within ninety (90) days of the filing of a residential Definitive Subdivision Plan.



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3. Within one hundred thirty-five (135) days of the filing of a residential Definitive Subdivision Plan where no Preliminary Plan was filed.

Copies of final action shall be filed with the Town Clerk and sent by delivery or registered mail to the applicant. A Definitive Plan disapproved by the Board of Health (Section IV.E.1.) shall not be approved by the Planning Board until the deficiencies noted by the Board of Health have been corrected. If the Board modifies or disapproves such plan, it shall state in its vote the reason for its action. Approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board (or by the signature of the person officially so authorized by the Board) but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Board with six prints thereof.

Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets and easements within a subdivision.

IV.H. *Recording of Plan and Notification of the Board*

1. Within ten (10) days after the Definitive Plan covenant, as approved and endorsed, has been recorded at the Hampshire Registry of Deeds and in the case of registered land, with the recorder of the Land Court, the applicant shall notify the Board in writing of the date of such recording and show evidence of the recording.
2. Upon receipt of notification of recording the Board shall file one print of the Definitive Plan with the Building Inspector. In accordance with the statute, where approval with covenant is noted thereon, the Building Inspector shall not issue any permit for the construction of a building on any lot within the subdivision without receipt from the Board of a copy of the Certificate of Performance (Use Form J).